IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 7058 of 2002

Between:

M/s.Sri Sainatha Construictions Rep.by its Managing Partner M.Ravindra Babu
South Bye-Pass Road, Nirmal Nagar,
Ongole, Prakasham District.

..... PETITIONER

AND

The Superintendent Engineer, Roads and Buildings Dept.,
Nellore Circle, Nellore,
Nellore Distrcit.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ or order declaring the action of the respondent in not considering the work experience of the partners of the petitioner firm as that of the firm as illegal and arbitrary and issue consequential direction to the respondent to consider the Tenders of the Petitioner in respect of works notified under C.T.N.No.16/D2/2001-02 dt.27-3-2002 taking into consideration the experience of the partners of the firm.

Counsel for the Petitioner: MR.D.KRISHNA MURTHY

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader.

The petitioner seeks to issue writ of mandamus declaring the action of the respondent in not considering the work experience of the partners of the petitioner firm as that of the firm as illegal and arbitrary and consequently direct the respondent to consider the tenders of the petitioner in respect of works notified under C.T.N. No.16/D2/2001-2002 dated 27.3.2002 taking into consideration the experience of the partners of the firm.

This Court in W.P.M.P.No.8844 of 2002 granted interim directions to the respondent to consider the tender of the petitioner in respect of the said works taking into consideration the experience of the partners of the firm.

The case of the petitioner is that it has submitted tenders in respect of works at S.Nos.5 to 15 and 23 of the tender notification and the petitioner firm on its own do not have the experience and the partners of the petitioner firm is having experience. But the respondent has not considered the experience of its partner and disqualified the petitioner's tender.

Counter affidavit has been filed stating that the petitioner has submitted his tender in respect of the work at S.No.8 alone and it has

not filed any tender in respect of works at S.Nos.5 to 15 and 23 of the said tender notice. Even in respect of the work at S.No.8 also, the petitioner has not satisfied the pre-qualification for submission of tender. The intending tenderer in his name should have satisfactorily completed similar work to a tune of Rs.19.90 lakhs in any one financial year during the proceeding five years. Apart from that the applicant should have executed minimum physical quantities of W.B.M./w.m.m 75/100 MM thick compacted each layer for 5210 M2, MSS/AC/BC for 20230 M2 or SDBC – 506 m3 and gravel base/ shoulders/beams for 1100 m3. The petitioner has filed five experience certificates which show that M.Sreenivasulu has executed similar nature of works to a tune of Rs.81,28,156/- during 1999-2000 and Rs.35,36,733/- during 2000-2001. As per the conditions, experience required should be in the name of the firm. But the petitioner does not have the experience and, therefore, the experience of a partner cannot be taken as experience of the petitioner firm. The eligibility criteria for award of works as per the orders contained in para 3, 8, 3 of G.O.Ms.No.23 I&CAD Department dated 5.3.1999 and the guidelines communicated by the Commissionerate of Tenders in its letter dated 11.10.1999, the petitioner was a registered Class-I civil contractor, but in the registration certificate it is not mentioned that the experience of his partner will be considered for the purpose of assessing the compliance of the firm to the eligibility criteria. In the absence of specific mention regarding this aspect, it is not reasonable for the petitioner to claim the experience of the partners of the firm as the experience of the petitioner firm.

Having regard to the facts and circumstances of the case, I am of the opinion that the petitioner does not fulfil the pre-qualifications stipulated for the works in question. As the tender work relates for the year 2002, I do not propose to pass any further orders in the writ petition at this juncture.

The writ petition is, accordingly, dismissed. No order as to costs.

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(V.ESWARAIAH, J.)

11.4.2005

kpr

To

1. The Superintendent Engineer, Roads and Buildings Dept.,
   Nellore Circle, Nellore,
   Nellore Distrcit.

2. 2 copies to the Govt. Pleader for Transport, High Court buildings,
   Hyderabad (O.U.T)

3. 2 C.D. copies